(ii) Mysore Village Panchayat and Local Boards (Amendment) Bill, 1970.

Introduction.

Sri H. N. NANJE GOWDA.—I beg leave of this House to introduce :

" The Mysore Village Panchayat and Local Boards (Amendment) Bill, 1970.

Mr. SPEAKER.—The question is :

" That leave be granted to Sri H. N. Nanje Gowda to introduce ' The Mysore Village Panchayat and Local Boards (Amendment) Bill, 1970.' "

The motion was adopted.

Sri H. N. NANJE GOWDA.—I introduce the Mysore Village Panchayat and Local Boards (Amendment) Bill, 1970.

Mr. SPEAKER —The Mysore Village Panchayat and Local Boards (Amendment) Bill, 1970, is introduced.

(iii) Mysore Irrigation (Amendment) Bill, 1970.

Introduction

Sri M. NAGAPPA.—I beg leave of this House to introduce:

" The Mysore Irrigation (Amendment) Bill, 1970. "

Mr. SPEAKER.—The question is :

" That leave be granted to Sri M. Nagappa to introduce ' The Mysore Irrigation (Amendment) Bill, 1970'."

The motion was adopted.

Sri M. NAGAPPA.—I introduce the Mysore Irrigation (Amendment) Bill, 1970.

Mr. SPEAKER.—The Mysore Irrigation (Amendment) Bill, 1970, is introduced.

(iv) Mysore Public Men Inquiries Bill, 1969.

(Motion to Consider—Debate continued)

Mr. SPEAKER.—The Mysore Public Men Inquiries Bill, 1969, is before the House for discussion. When the Hon. Minister for Parliamentary Affairs was on his legs in the last session on 5th September 1969 the House was adjourned. So the Hon. Minister may continue his speech.

Sri H. SIDDAVEERAPPA.—Is the Hon. Minister opposing ?

Sri K. PUTTASWAMY (Minister for Law, Labour and Parliamentary Affairs).—Sir, I have not come to that stage.

On the 5th September 1969, I was submitting to this House that the Bill that is sought to be taken up for consideration, namely, the Mysore Public Men Inquiries Bill is beyond the legislative competence of this House. The second objection was that it required the sanction of the Governor for introduction under Art. 207. I have taken some time of this House to analyse the several provisions of the Bill and stated that the right invested in the Chief Justice and the Judges of the High Court is that of glorified police officers. I also pointed out that the proceedings that are going to be taken under this Bill would not be judicial proceedings within the meaning of Sections 193 and 228 of the Indian Penal Code even though such a specific provision is made in sub-clause (4) of Clause 11. I do not want to take the time of the House in traversing the same ground over again. I would bring to your kind notice that Clause 13, which is the culmination of the proceedings to be undertaken under this Bill, reads thus :

> " The Judge shall, at the end of the inquiry, pronounce his findings in public and report the same to the Governor."
>
> " Where the Judge is of opinion that it is expedient in the interests of Justice that the person accused or any other person concerned with the subject matter of the accusation should be prosecuted for any offence referred to in section 6 of the Criminal Law (Amendment Act, 1952) he shall record a finding to that effect stating his reasons therefor. "

The findings that the Judge is expected to record, according to this provision, is that it is expedient in the interests of justice that the person accused or any person accused, with the subject matter of accusation, should be prosecuted. To reach this stage, a complaint has to be preferred to the Governor. The Governor has to send it to the Chief Justice. The Chief Justice has to appoint another Judge to inquire into the matter. He should hold the inquiry and record the proceedings. This work, as I submitted last time, is the work of a Station-house Officer and of an investigating officer.

Then Sir, Sub-clause (4) of Clause 13 further states :

> " Where a finding referred to in sub-section (2) or sub-section (3) is recorded by the Judge, the Vigilance Commissioner shall take all necessary steps for the prosecution of the person concerned, including, where necessary, the seeking of the sanction for such prosecution. "

[MR. CHAIRMAN (SRI D. M. SIDDAIAH) in the Chair]

The Vigilance Commissioner should take up the proceedings and take up all necessary steps for the prosecution of the person concerned. After the Vigilance Commissioner takes up the question of prosecution,

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supposing a charge sheet has to be filed, where exactly it has to be filed? Under the Criminal Law (Amendment) Act, special procedure has been prescribed. A special Judge of the status of a D strict and Sessions Judge will have to be appointed for purpose of hearing that case. Now, the matter has already been scrutinised by one of the Judges of the High Court, based on his findings, making use of all the materials that he has collected, the Vigilance Commissioner sets in motion further investigation and places charge-sheet before a District and Sessions Judge. Can we expect that the District and Sessions Judge would take a detached point of view while proceeding with the case? Is it not open to the person that is going to be accused of the offence to say that the District and Sessions Judge would be under the influence of the Judge of the High Court who has collected all those facts? Virtually he will be sitting in judgment over the findings of the High Court Judge. This is what is going to happen.

Sir, the other day I also pointed out that even though in sub-clause (iv), clause 11, it is stated that it would be considered as a judicial proceeding, it would not amount to a judicial proceeding. That position has been made clear in a decision by the Supreme Court, I refer to A.I.R. 68, page 538, Ramakrishna Dalmia Vs. Justice S. R. Tendolkar. That was a case arising out of the Commission of Enquiry Act, 1952. In that Act also the same provision is included. The Supreme Court considered the case and held that the proceedings under the Commission of Enquiry Act would not amount to a judicial enquiry. I will refer that relevant portion for your consideration :

> "The Commission has no power of adjudication in the sense of passing an order which can be enforced *pro prio vigore*. A clear distinction must, on the authorities, be drawn between a decision which, by itself, has no force and no penal effect and a decision which becomes enforceable immediately or which may become enforceable by some action being taken. Therefore, as the Commission what we are concerned with is merely to investigate and record its findings and recommendations without having any power to enforce them, the inquiry or report cannot be looked upon as a judicial inquiry in the sense of its being an exercise of judicial function properly so called and consequently the question of usurpation by Parliament or the Government of the powers of the judicial organs of the Union of India cannot arise on the facts of this case and the elaborate discussion of the American authorities founded on the categorical separation of powers expressly provided by and under the American Constitution appears to us, with respect, wholly inappropriate and unnecessary."

Sri H. M. CHANNABASAPPA.—Is it the contention of the Hon. Minister that the findings under the Commission of Enquiries Act will not amount to judicial findings, which are enforceable in a court of law ?

Sri K. PUTTASWAMY.—That was exactly my contention. The point that I was making out was whether a proceeding under this Mysore Public Men Enquiries Bill would become judicial proceedings. I was pointing out that the hon. member who has introduced this Bill, has taken care to specifically include a provision to the effect that any proceeding before the Judge shall be.....

† Sri H. SIDDAVEERAPPA (Harihar).—I think last time also the Hon. Minister took considerable time in opposing this measure on the ground that under the Constitution it cannot be introduced. Now I would like to know the exact stand of the Mysore Government. I understand that the Mysore Government has opposed the introduction of the system of Lok Ayukt. They have taken a decision in the Cabinet and said that they do not want that system to be introduced in Mysore. I know in other States particularly in U.P. and Kerala, there is an Act under which even though there are Ministers against whom there are certain allegations, provisions is made for an enquiry into their conduct and also further proceedings can be taken. I want to know from the Hon. Minister whether the Government would like to introduce any kind of law wherein so far as the officers are concerned, I think we have got the Vigilance Commission Act and if necessary we can improve it—an enquiry may be conducted against those who are in public life, whoever they may be. If the Bill drafted by Sri Nanje Gowda is not well drafted or is not within the orbit of law, I may request him to withdraw it, provided you bring it in an improved manner. What we want to know is, whether the Government is keen on bringing in a Bill whereby a person in public life, including a Minister can be tried as in the case of Ambudsman in other countries ?

† Sri H. M. CHANNABASAPPA (Periyapatna).—Before the hon. Minister gets up, I would, with your permission, like to have one or two clarifications. The Hon. Minister has made his opinion as clear as possible. I have heard with great care every word of what he said. Now he has taken the stand to oppose the consideration of this Bill on some ground or the other. This Bill came up before the House in some other form where the Governor refused to give the recommendation, necessary for introduction. It is well known that the Governor acts on the advice of the Chief Minister and the Ministry. That means to say that this Ministry has refused to recommend to the Governor or not advised the Governor to give approval or recommendation for this Bill. Therefore, that indicates which way the mind of Government is running. They do not want a Bill of this kind to come here. The hon. Member Sri Nanje Gowda has taken very great pains to remove all the clauses which involve additional expenditure and has tried to present the Bill in a form which is acceptable without the recommenda-

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tion of the Governor. But the Government is objecting to it on very flimsy grounds. I cannot understand the flimsy ground on which the Government is standing. This indicates, as my friend Sri Siddaveerappa pointed out, that the Government is not anxious or sincere in purifying public life, but I am sure the Chief Minister has made it amply clear that he is second to none to purify public life. For that some kind of machinery is necessary. Now we are not bothered about what form the machinery should take and in what form you are going to create it. If Mr. Nanje Gowda's machinery is not acceptable, I should have no objection if Government itself create a machinery of some kind in order to go into the malpractices of Ministers, Chief Ministers and men in public life in various capacities in the State. Unless that is done, this country has no hope.

The Reforms Commission recommended the Lok Pal and the Lok Ayukt, a Bill for which has been passed by the Lok Sabha. When requested to enact such a legislation here, the Mysore Government has refused to accept these things. If the machinery suggested by Sri Nanje Gowda is not acceptable to Government, I have no quarrel with it. But let Government itself propose a machinery to try cases of malpractice and misuse of power, nepotism, etc. Now, you know, Sir, that we on this side of the House have made several charges. When I make a charge against the Chief Minister, the Chief Minister himself argues his own case and says that there is no prima facie case. What kind of justice can there be in such a situation ? It is like the complainant, the prosecutor and the judge all combined in one person. This kind of a thing should go. In Mysore the feeling is growing very much that unless there is a machinery to look into matters of public grievance, there is absolutely no point in the Government itself looking into it and deciding it.

Even the Study Team on State Level Administration recommended that wherever Lok Pal and Lok Ayukta are not accepted, at least the Public Men Enquiries Bill on the lines of the law enunciated in U.P. and on the lines accepted in Kerala must be introduced. If even that is not acceptable, I fail to understand the mentality or the approach of the Government and therefore I question the sincerity of the Government in purifying public life. All talk of purifying public life is tall talk. It only indicates that the Government is anxious to commit as many crimes as possible to its own advantage in running the administration. It only goes to show that a machinery of the type suggested by Sri Nanje Gowda is necessary for purifying public life. If that requires the recommendation of the Governor, I would request the Government to please advise the Governor to give the necessary recommendation for the Bill. If this also is not acceptable to the Government, let them assure this House that in this very budget session itself they will bring a Bill which is consistent with the Constitution and which is acceptable

to them. Without such an assurance there is no point in our wasting public funds by simply carrying on discussion and reading voluminous reports and decisions of High Courts and Supreme Court. We are not bothered about all that. What we are bothered is to see that a machinery is created to purify public life. We have been hearing several kinds of allegations about men in public life in the co-operative sector and other sectors. We have been hearing of malpractices by Taluk Board Presidents, Municipal Presidents, Ministers and Chief Ministers. So it is absolutey necessary that there should be a machinery to go into these cases of malpractices and see whether there is any truth in them. Instead of that, if the Chief Minister says that he will himself look into the complaints of malpractices against the Chief Minister and the Ministers that will not serve any useful purpose. I would appeal to the Chief Minister because he has said that he is second to none in purifyiny public life and in seeing to the purity of administration. If he is really sincere and if he is prepared to create a machinery to go into the charges of such malpractices, then let him advise the Governor to give his recommendation to the original Bill and let us create a machinery. Or if he feels that this Bill is not in proper form and that it requires some changes, then let him assure the House that the Government itself will bring forward a proposal in this very session to provide for a machinery to do the functions of a Commission of Enquiry.

It may be argued that a Commission of Enquiry has no judicial functions. Even then, if the Commission of Enquiry gives a verdict that there is a prima facie case, then it is for the Government or any other machinery to take it up and proceed further. Let us not dismiss this Bill saying that the Commission of Enquiry has no judicial functions. I appeal to the Chief Minister to have mercy and to assure that he will bring forward a Bill for the creation of such a machinery. In that case let us stop all further discussion about this Bill and let us not waste further time of the House.

10-30 A. M.

Sri K. PUTTASWAMY.—I appreciate the feelings of the hon. members Sri Channabasappa and the leader of the Opposition. I think the Government have made the position very clear on the floor of this House, regarding the necessity for a legislation of the type that the hon. Members are envisaging. The hon. Members know that a Bill of the type has been introduced in the Parliament and we have yet to see in what form the Bill is going to emerge from the Parliament. Sri Channabasappa has made a reference to similar Bills that have been passed in Uttar Pradesh and Kerala Legislatures. Sir, as far as I know I do not think that is a fact as a first hand knowledge. Even if such Bills are passed, it may not be possible to implement and to take proceedings on that. The reasons may be quite different. My point of view is simple. I am only pointing out that the Bill is beyond the legislative competence of the House.

Sri H. M. CHANNABASAPPA.—In Uttar Pradesh an Ordinance was promulgated.

Sri H. SIDDAVEERAPPA.—In Kerala, you know there is an enquiry conducted. If you make provision, the citizens may complain against the Ministers and others under the Commission of Enquiry Act.

Sri K. PUTTASWAMY.—I may confess that I am in a position to question a seasoned parliamentarian like Sri Siddaveerappa. The Hon. House knows how the proceedings under the Commission of Enquiry Act are taken. It is only the Government that appoints the Commission and it is the Government that gives the terms of reference for holding enquiry. I do not think any citizen who seek the enquiry of the Commission will be able to make use of the machinery unless the Government takes a decision in that behalf. As far as the Commission of Enquiry is concerned, that is my view.

Sri H. M. CHANNABASAPPA.—The Commission of Enquiry can only be appointed by the Government if the Government feels there is a prima facie case.. If the Chief Minister is an accused what would be the position?

Sri K. PUTTASWAMY.—The other question is there are remedies open to the citizens. If they find that the persons in authority have misused the position, or there is misconduct on their part, action may be taken under the existing provisions of law. They are punishable under Sections 161 and 165 (a) of I.P.C.

Sri H. M. CHANNABASAPPA.—Misuse of power and position as Ministers are on the increase in this country. The person who is the highest authority, cannot be questioned by his subordinates under the existing Acts. This is what is happening since 20 years. The existing provisions cannot meet the requirements of the public. Therefore this ordinary law will not serve any purpose to meet special contingencies arising out of a case in which an highest authority is involved. Our Leaders in this country and even the Lok Sabha have felt the need for a special machinery.

Sri K. PUTTASWAMY.—The scope of the present discussion is being enlarged. But I can reply to Sri K. H. Patil who asks what is the course open to him to remove the Ministry if they are guilty of misconduct. This House has got full powers to throw them out and it does not take much time. Sri Channabasappa said that my knowledge of Criminal Law and Indian Penal Code is outdated and that these laws are not useful under the present circumstances. That is why I said the Parliament is already thinking of bringing Lok Ayukth and Lok Pal in the picture. These Bills have been introduced and let us wait and see in what form they will emerge. I do not deny there is some need for some sort of legislation for citizens to initiate proceedings against the persons in authority if they misuse their position. That is a very complicated question and the parliament is seized of it but it is not yet passed.

Sri H. SIDDAVEERAPPA.—Sir, I only want the Hon. Minister to answer one point. I don't think he can ask us to wait and see what the Parliament is going to do about it. This house is also sovereign ; this House is also competent to think of its own procedure as far as the State is concerned. In Kerala, I know.....

Sri K. PUTTASWAMY.—In Kerala also, it is under the Commission of Enquries Act.

Mr. CHAIRMAN.—Is it not better to wait and see what Parliament is going to do about it ?

Sri H. M. CHANNABASAPPA.—Sir, I want the Hon. Minister to stand on a firm ground. My appeal to him is, instead of going round about if he says that they are anxious to do it the matter will end there.

Sri K. PUTTASWAMY.—Sir, I am not pointing out any ambiguity in the Bill. But, it is beyond the legislative competence of this House. I will further point out how it requires the consent of the Governor. I straightaway concede that the discussion is purely academic.

Sri H. SIDDAVEERAPPA.—It is not only purely academic but also technical. I know my friend Sri K. Puttaswamy can make out a very good case stating that technically this Bill cannot be maintained. But, I want him to understand the spirit behind this Bill. If he is in agreement with the spirit of the Bill, *viz.*, there must be a machinery, by which men in public life including Ministers, members of Legislature and others against whom there is a specific charge, may have a right of access for placing their grievances as in other countries. he shall not object to it. We know in Sweden and in other democratic countries, there is the Ombudsman. Let him say whether he is in agreement with that principle or not. Today, if democracy is to be saved, we want a purification provision whereby it is possible for anybody or everybody to make all sorts of allegations if they are genuine. The man who makes a complaint must do it with a full sense of responsibility, and if he makes a false statement he will have to undergo punishment. Unless there is some prima facie evidence he will never venture to make a complaint. But, who is there to enquire into it ? The Chief Minister was himself helpless in asking others to disclose their assets. In the interest of maintaining public morality and administration, such a provision should be there. I want only an assurance from the Hon. Minister as to whether he is in agreement with the spirit underlying this Act and if he is agreeable he will be doing immeaurable good to the State.

Sri K. PUTTASWAMY.—Sir, I have already stated that considering the situation in the country, some measure is necessary so that an ordinary aggrieved citizen may seek remedy as against the person in authority. That question was examined by the Administrative Reforms Commission and they have made a recommendation for enactment of certain law. A Bill has already been circulated. *viz.*, the Lok Ayukth and Lok Pal Bill. It has been introduced in the Parliament and

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it has not been taken up and passed as far as I know. Therefore, I submitted that it would be better for us to wait and see in what form it is going to be passed. In that Bill they may also include provisions which will relate to certain persons in authority in the State sector also. I am not denying the necessity of some sort of legislation in that respect. But, what I was submitting was that the present Bill as it is, is beyond the legal competence of this House.

Sri H. N. NANJE GOWDA.—The Lok Ayukth and Lok Pal Bill was referred to a Joint Select Committee on 26th March 1969. If the Hon'ble Minister goes through the definition clause, there the 'Minister' means a Minister other than the Prime Minister and includes a Deputy Minister and 'official' means a person appointed to the public service in connection with the affairs of the Union.' Nowhere is it stated in that Bill that it covers the State administration. Therefore, we need not wait for this Bill. It is only with respect to the Ministers and Deputy Ministers of the Union and officers of the Union Government.

Sri K. PUTTASWAMY.—It may be so. I am not asking this august House to wait for the passing of the Bill by Parliament. But, that was my personal reaction to the question. My Points of Orders are purely on technical grounds. I have been pointing out that the Judges of the High Court are being made to act as investigating officers under this Bill, which cannot be permitted. If it is permitted under the law, I would have no objection. Supposing it is legally competent for this House to create an obligation, by legislation, on the Judges of the High Courts to play the role that is envisaged under this Bill, I will not have any objection. I am only saying that under the Constitution, we cannot do it. That is all my point.

ಶ್ರೀ ಎಚ್. ಬಿ. ಜ್ವಾಲನಯ್ಯ (ಹಾಸನ).—ಈಗ ತಾವು ತಂದಿರತಕ್ಕಂಥ ಈ ಕಾನೂನಿನ ಚೌಕಟ್ಟಿನಲ್ಲಿ ಮಂತ್ರಿಗಳ ಮೇಲೆ ಆರೋಪಣೆ ಬಂದಂಥ ಸಂದರ್ಭದಲ್ಲಿ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲವೆಂದು ನಮ್ಮ ಮಾನ್ಯ ಮಿತ್ರರಾದಂಥ ಶ್ರೀಮಾನ್ ನಂಜೇಗೌಡರು ಅಭಿಪ್ರಾಯ ಪಟ್ಟು, ಅವರು ಒಂದು ಬಿಲ್ಲನ್ನು ಇಂಟ್ರಡ್ಯೂಸ್ ಮಾಡುವುದಕ್ಕೆ ಲೋಪ ಇದೆಯೇ, ಅದಕ್ಕೆ ತಾವು ಹೇಳಬೇಕು.

ಶ್ರೀ ಕೆ. ಪುಟ್ಟಸ್ವಾಮಿ.—ಸ್ವಾಮೀ, ಈ ವಿಚಾರದಲ್ಲಿ ಈಗಾಗಲೇ ಹೇಳಿದೆ. ಇದುವರೆಗೆ ಸಾರ್ವಜನಿಕ ಸ್ಥಾನದಲ್ಲಿರತಕ್ಕವರು ಏನಾದರೂ ತಮ್ಮ ಸ್ಥಾನವನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡು ಲಂಚ ರುಷುವತ್ತುಗಳಿಗೇನಾದರೂ ಒಳಗಾದರೆ ಅಂಥವರ ಮೇಲೆ ಕ್ರಿಮಿನಲ್ ಲಾ ಅಮೆಂಡ್‌ಮೆಂಟು ಆಕ್ಟ್ ಪ್ರಕಾರ ಕಾರ್ಯಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವ ಪರಿಸ್ಥಿತಿ ಬಂದಿರಲಿಲ್ಲ. ಈಗ ಪರಿಸ್ಥಿತಿ ಬದಲಾವಣೆಯಾಗಿದೆ. ಯಾವುದಾದರೂ ಸಾರ್ವಜನಿಕ ಹುದ್ದೆಗಳನ್ನು ಹೊಂದಿರತಕ್ಕವರು ತಮ್ಮ ಸ್ಥಾನವನ್ನು ದುರುಪಯೋಗಪಡಿಸಿಕೊಂಡರೆ ಅಂತಹವರ ಮೇಲೆ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಒಂದು ಅವಕಾಶ ಬೇಕು. ಇದಕ್ಕಾಗಿ ಅಡ್ಮಿನಿಸ್ಟ್ರೇಟೀವ್ ರಿಫಾರಂಸ್ ಕಮಿಷನ್ನಿನವರು ಲೋಕ ಪಾಲ ಹಾಗೂ ಲೋಕ ಆಯುಕ್ತನೇಮಕದ ಸಂಬಂಧವಾಗಿ ಒಂದು ಮಸೂದೆ ತಯಾರು ಮಾಡಿ ಅದು ಸೆಲೆಕ್ಟ್ ಕಮಿಟಿಗೆ ಹೋಗಿತ್ತು. ಈಗ ಆ ಕಮಿಟಿಯವರು ವರದಿಯು ಪಾರ್ಲಿಮೆಂಟು ಮುಂದೆ ಇದೆ ಎಂದು ಶ್ರೀಮಾನ್ ನಂಜೇಗೌಡರೂ ಹೇಳಿದರು. ಈ ಮಸೂದೆ ಯಾವ ರೀತಿ ಬರುತ್ತದೆ ಎನ್ನುವುದನ್ನು ಕಾದು ನೋಡೋಣ. ಮತ್ತು ಇದಕ್ಕೆ ಯಾವುದಾದರೂ ಅಡಚಣೆಗಳಿವೆಯೇ

ಎನ್ನುವುದನ್ನು ನಾವು ನೋಡಿ ವಿಚಾರ ಮಾಡದ ಹೊರತು ನಿರ್ದಿಷ್ಟವಾಗಿ ಹೀಗೆ ಮಾಡಬೇಕಾಗುತ್ತದೆ ಎಂದು ಈಗ ಹೇಳಲು ಸಾಧ್ಯವಿಲ್ಲ. ಇದರ ತೀರ್ಮಾನ ಹೇಗಾಗುತ್ತದೋ ಎಂದು ನಾವು ಕಾದು ನೋಡಬೇಕು.

I was trying to point out how a Judge would not be acting in his capacity as a High Court Judge if he is appointed as a person to hold an enquiry under the Public Men Enquiries Bill. Again I would like to draw a parallel from a proceeding under the Commission of Inquiry Act. I feel it is very necessary that we should also know where exactly we stand in this respect. I would just read that portion which says :

> "A judge acting as a Commission under the Commission of Inquiry Act would not be discharging judicial functions."

Then again in A. I. R. 1965 Supreme Court 1596 a full bench consisting of the former Chief Justice of Supreme Court Sri Gajendragadkar and the present Chief Justice Sri Hidayatulla, also held that :

> "a Judge acting as a Commission would not be discharging judicial functions."

In the Constitution of India, it is clear that this House can only create obligations on the High Court Judges to discharge the judicial functions and not the non-judicial functions. The full bench which I referred to just now, also observed in this case that :

> "A sovereign State discharges legislative, executive and judicial functions and can legitimately claim corresponding powers which are described as legislative, executive and judicial powers. Under our Constitution, the judicial functions and powers of the State are primarily conferred on the ordinary Courts which have been constituted under its relevant provisions. The constitution recognised a hierarchy of Courts and to their adjudication are normally entrusted all disputes between citizens and citizens as well as between the citizens and the State. These Courts can be described as ordinary Courts of Civil judicature. They are governed by their prescribed rules of procedure and they deal with questions of fact and law raised before them by adopting a process which is described as judicial process. The powers which these Courts exercise, are judicial powers, the functions they discharge are judicial functions and the decisions they reach and pronounce are judicial decisions."

Therefore, Sir, a High Court Judge will not be discharging judicial functions under the Public Men Inquiries Bill. He would only record the findings and the Vigilance Commission has to take up to the matter based on those findings and wherever necessary seek sanction of the Government for prosecution, etc. Even if the Public Men Inquries Bill becomes a law, the role a High Court Judge plays would only be the role of Inves igating Officer and not of a Judge and the finding he gives would only amount to say that there is a prima facie case and that is not going to be his decision on which further action can be taken.

(ಶ್ರೀ ಕೆ. ಪುಟ್ಟಸ್ವಾಮಿ)

In another decision of the Supreme Court in the case of The Collector of Varnasi *vs.* Gouri Shanker (AIR 1968 S. C. 354) after quoting the observations of the Supreme Court in AIR 1965 S. C. 1595 referred to above, the following observation has been made :

> "Broadly speaking, the Court is a place where justice is judicially administered. * * * * The hierarchy of the Courts in this country is an organ of the State through which its judicial power is primarily exercised. **** The High Court of a State is at the apex of the State's judicial system. It is a Court of record. It is difficult to think of a High Court as anything other than a Court. We are unaware of any judicial power having been entrusted to the High Court except as a 'Court'. When it decides or determines any dispute that comes before it, it invariably does so as a Court."

Sri H. SIDDAVEERAPPA.—I would like to know from the Hon. Minister as to what has he to say in regard to the spirit of this Bill. Also I would like to request the Hon. Minister through the Hon. Speaker to be brief and give some time to the members on this side also to speak.

Sri K. PUTTASWAMY.—I quite appreciate the feelings of the hon. Member. I will be very brief.

Sir, in the matter of Mr. Hayles (AIR 1955 Madras 1), a Full Bench of the Madras High Court considered the question whether a Judge of the High Court appointed as a Presiding Officer of an Industrial Tribunal would continue to have the powers of the High Court to punish persons for contempt under Article 215 of the Constitution.

Sir, the observations are like this :

> "It should be fairly clear that adjudication of Industrial Disputes under the Industrial Disputes Act, 1947, is not within the jurisdiction of the High Court as such. That jurisdiction is only conferred on the special statutory tribunals created by that Act. Section 10, Industrial Disputes Act read with Section 7 makes that clear. So, it was not in the exercise of the jurisdiction of the High Court of Madras that the learned Judge discharged his functions as an Industrial Tribunal duly constituted under Section 7 (i), Industrial Disputes Act. It was not the office as a Judge of the High Court that our learned brother Mack J. held at the time of his appointment under Section 7 (i) of the Act that conferred jurisdiction on him as Industrial Tribunal. That jurisdiction could only be traced to and founded on S. 7 (i), Industrial Disputes Act. That, as we pointed out before, did not confer any jurisdiction on the High Court as such. It should follow that the proceedings

before the learned Judge, who constituted the Industrial Tribunal, were not proceedings of the High Court, of which he was no doubt a Judge. It is not the office he holds that makes every act of his during his tenure of Office as a Judge of the High Court as act done or even purported to be done in the exercise of the jurisdiction of that High Court."

11-00 A.M.

Therefore, it was held here that even though he acted as a judge of the Industrial Tribunal, he should not be deemed to have functioned as a High Court Judge and therefore, he was not competent to take up proceedings under article 215.

Sir, another point is also very relevant here. What exactly is the actual service of the Judge? Sir, the expression 'actual service' of a Judge of a High Court has been defined in paragraph 11 (*b*) (i) of the Second Schedule to the Constitution. It appears in Part D of Schedule II, there 'Actual service' is defined thus :

"(*b*) 'actual service' includes—

(i) time spent by a Judge on duty as a Judge or in the performance of such other functions as he may at the request of the President undertake to discharge ; "

So, this House cannot ask the High Court judge to take up this work. Under the Constitution, it is very clear that the High Court Judge can take up other work only at the request of the President and this was also further made clear by a circular sent by the Government of India recently.

Sri H. N. NANJE GOWDA.—We are not creating any Commissions of enquiry but we are trying to add one more function to the list of functions of Judges.

Sri K. PUTTASWAMY.—Sir, I have been at pains to make that position clear. This House cannot create a legal obligation on the High Court to take up this work because as I was pointing out this will not be a judicial proceeding. If it were a judicial proceeding, this House would have been competent to do so. Now, it is not considered a judicial proceeding and this House cannot make a High Court Judge take up this work.

I was just trying to point out that it has been further made clear by a communication of the Ministry of Home Affairs on 22nd May 1969. For the information of this House, I would read it, because it may figure on several future occasions also : It reads thus :

"I am directed to say that a question has been raised whether in respect of a serving Judge of a High Court appointed as Chairman/Member of the Advisory Board constituted under section 8 of the Preventive Detention Act,

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1950, a request to the judge from the President to perform such function is necessary under para 11 (b) (i) of Part D of the Second Schedule to the Constitution read with Section 2 (1) (c) (i) of the High Court Judges (Conditions of Service) Act, 1954. This has been examined by the Government of India and they have been advised that when a serving Judge of a High Court functions as a Chairman/Member of the Advisory Board, he does not discharge the duties of a Judge of the High Court. He performs other functions within the meaning of para (11) (b) (i) of Part D of the Second Schedule to the Constitution, and, therefore, a request from the President to the Judge to undertake to discharge those functions is necessary so that the time spent by the Judge in the performance of such functions would count as actual service' for the purpose of his salary. I am, therefore, to request that whenever the State Government propose to appoint a Serving Judge of a High Court as Chairman/Member of the Advisory Board under the Preventive Detention Act, they may make a reference to this Ministry giving necessary details, so that a request from the President may be sent to the Judge concerned."

That has been made very clear. Here I would like to draw the attention of the hon. Member Sri Nanje Gowda how this is not a part of the judicial duties. If they were part of judicial duties, all these questions would not have arisen. The Chief Justice will have to appoint one of the High Court Judges to look into the matter. Supposing he does so, it does not amount to a judicial act. The functions that the judge is going to discharge would not be judicial functions.

[MR. SPEAKER in the Chair]

Sri H. SIDDAVEERAPPA.—Sir, the Minister has already taken three hours. Strictly speaking under the Rules, there is no time limit prescribed for legislative work. But there cannot be any discrimination between Government Bills and private Member's Bill. This will be a wrong precedent.

Sri K. PUTTASWAMY.—I do not want to be a party to establish wrong precedent. I know on points of order, only a brief speech is permitted. If the Hon'ble Member wants, I will curtail my speech.

Sri H. SIDDAVEERAPPA.—What I say is, please extend the same concession to the Members on this side also.

Sri L. SRIKANTAIAH (Nanjangud).—An important constitutional point is involved. Before we take a decision on the technicalities of the subject, I feel the Hon'ble Minister may be permitted to speak, because very important points are involved. These are points of law and we cannot express an *ad hoc* opinion and be done with it.

Sri K. PUTTASWAMY.—Sir, I thank the Hon'ble Member Sri L. Sreekantaiah for coming to my rescue. I will not take much time. I will just make a reference to the point whether under article 246, this House can pass a legislation of this kind.

Sir, from the decisions that I have so far cited, it is very clear that a High Court judge discharging any function other than that of a judge of the High Court, would not be judicial function of the court.

The next question for consideration is whether a State Legislature is competent under the legislative powers vested in it by clauses (2) and (3) of article 246 of the Constitution or any other provision of the Constitution, to make law imposing obligation upon the judges of the High Court and district judges to discharge functions other than those that have to be discharged by them—in the case of judges of the High Court, as part of the High Court and in the case of district judges, as presiding officers of the district courts. The State Legislature can make laws relating to the administration of justice and the State has powers regarding the constitution and organisation of all courts except the the Supreme court and High Court and the State can make law relating to the jurisdiction of all courts except the Supreme Court with respect to any of the matters in that list. The State can also make laws relating to the jurisdiction of powers of all courts except the Supreme Court with respect to any matters in that list. Sir, it may be noticed that these lists empower the Legislature to make laws relating to the administration of justice and confer jurisdiction upon the courts in respect of matters enumerated in lists 2 and 3. The judge required to hold an enquiry for purposes of prosecution of persons against whom an accusation is made, would not be dealing with the administration of justice; to hold an enquiry for the purpose of prosecution cannot be considered to be part of the functions of the court. They are really the functions of the police normally under the Criminal Procedure Code. Under Annexure-seventh Schdeule, item 78, Parliament has exclusive power of legislation in respect of the constitution and organisation of the High Courts, except provisions as to Officers and servants of High Courts, persons entitled to practice before the High Court. The High court has held in Shivarudrappa Vs. the State of Mysore—Mysore Law Journal 158, that the word 'organisation entry 78 of List 1 extends to all acts necessary give orderly structure in order to evolve a working order. Section 18 of the Mysore High Court Act 1884, empowers the Chief Justice to distribute work in the High Court between himself and other Judges of the said High Court. This provision relates to the organisation of the High Court. The internal function of the High court other than the administration of justice for which laws could be made by the State Legislature under items 3 of list 2 will have to be regulated by law made by Parliament. There is no provision in the Constitution by virtue of which the State legislature can make law in respect of the judge of the High Court discharging functions unconnected with the High Court.

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Regarding the making district Judges hold to an enquiry under this Act, this is not also possible because under article 235, the promotion and control of district judges courts vests with the High Court and therefore the High Court also cannot entrust non-judicial work to the district judges. That position is also very clear. And regarding staff also, even granting that either the High Court Judge or the District Judge is appointed as enquiry judge, he would require additional assistance and for additional assistance staff is also to be appointed. There is no provision under the constitution to make the staff of the High Court to take up additional work. If they are to be asked to take up additional work, additional hands will have to be given and even if there is not much work, and even if one person is to be asked to additional work not being the duties attached to District Judges Court as such, then he will have to be paid emoluments and that becomes a second objection, because, it cannot be considered in respect of this Bill by the tate Legislature without the recommendation of the Governor, because if the High Court Judge is to be appointed to do this work, in his place another High Court Judge will have to be appointed to work. If a District Judge is appointed to be enquiry judge, another district judge will have to be appointed in his place. Therefore, expenditure from the consolidated fund will have to be incurred.

SRI H N. NANJE GOWDA.—We are not appointing any new judge for this work. The case will be referred to him that is all.

SRI K. PUTTASWAMY.—Sir, the Hon. Member has not cought my point. I said that this function not being judicial function, these judges cannot be asked to perform these functions.

Therefore, that question does not arise and my friend thought that by avoiding reference to other agencies, he would be able to get over the effect of Art. 207 of the Constitution and that it is not possible. Therefore, I think I have been able to establish these two points. One is: the High Court Judge or a District Judge while functioning under the Public Men Inquiries Bill, would not be discharging judicial functions. And this House is competent only to legislate for the administration of justice and not for creating obligation on the High Court Judge and the District Judges for discharging non-judicial functions. If we appoint any High Court Judge or a District Judge to discharge functions under this Bill, then in their places additional Judges will have to be appointed and they have to be provided with additional employees. Therefore, for all these things, expenditure from the Consolidated Fund of the State will have to be incurred. On these two grounds, this Bill cannot be taken up for consideration.

† SRI L. SRIKANTAIAH.—Sir, I have heard patiently the arguments advanced by my learned friend Sri K. Puttaswamy, Minister for Parliamentary Affairs. I am giving my humble opinion. Of course I

am saying this with all the limitations and unpreparedness because this is an issue in which expert opinion is necessary. If it is possible, I wish the opinion of the Advocate-General is obtained later because the issues raised, are of paramount importance for our future guidance also. I am not disputing the importance of this Bill because our minds are exercised. There should be some sort of a forum where accusations levelled against Ministers and the members of the Legislature are disposed of and justice is meted out; there are no two opinions on that. If I may draw the attention of the House, Kerala State Assembly has recently passed the Public Men Inquires Bill in a different form; and equally the Parliament is also enacting Lok Ayukt and Lokpal Bill just like Ombudsman of Sweden and the report on that Bill is awaited.

I am glad that the Hon. Minister for Parliamentary Affairs has conceded in principle the necessity of having a legislation of this type so far as the State is concerned. But here the point we are considering is whether the Bill is brought forward on the recommendation of the Governor as the recommendation of the Governor is necessary for introduction of this Bill. The Hon. Minister Sri Puttaswamy has opposed this bill on two grounds. I shall summarise them. The first ground is that the Constitution of India has prescribed the functions of the High Court as well as the Supreme Court. Therefore, in the guise of creating a function, if you put extra function on the High Court Judge, this is not warranted by the Constitution. Therefore, that can be done only on the recommendation of the President or if necessary with the concurrence of the Parliament. That is ground number one. Ground No. 2 is: even accepting for argument's sake that a High Court Judge could be entrusted with additional functions, the next objection, namely, financial implication, comes. It means extra work, extra staff and extra money which requires to be borrowed from the Consolidated Fund of the State. Therefore, previous sanction of the Governor is necessary.

So we are faced with two objections which have been raised. I have already stated that I am arguing with all the limitations. I also need to be enlightened on this important Constitutional issue. At the face value, to me the objections appear to be tenable. And the objections will have to be upheld for the following reasons.

So far as the first one is concerned, I had conceded the arguments of the learned Law Minister. So far as administration of justice in India is concerned, to my knowledge, in the hierarchy of judicial functions, the High Court has only appellate powers and even the Supreme Court has only appeal powers. The functions of the High Court may be pointed out; whether it is a criminal case or civil case or a revenue case. Only appeal matters are being considered by the High Court. Except in contempt cases and write petitions, the High Court will not make up original functions; it is not a court of original jurisdiction. Now with the inauguration of our Constitution that original power, more or less, is being taken away except in very few cases, as already stated, like contempt cases and writ petitions.

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Now the question would be: whether the High Court Judge could be burdened with another duty. Now I have carefully gone through the Private Member's Bill. I invite attention to clause 9 (2) of the Bill which reads :

> " Where the Vigilance Commissioner has reported that the accusation is wholly or partly substantiated, the Judge shall proceed to enquire into it."

Now the question is : supposing clause 9 is adopted, can this House, within the limitations prescribed under the Constitution, ask a Judge of the High Court to inquire into the matter ? I think it is not possible. For instance, let us take 207 Cr. P. C. We find, so far as sessions cases are concerned, there are two stages of enquiry ; enquiry by the enquiring Magistrate and if he finds that there is a prima facie case, he commits it to a Court of Session for trial. Now the question is whether a Judge who is an inquiring magistrate can be clubbed with a Judge of the High Court and whether a Judge of the High Court sitting, is an inquiring judge. For instance, let us take a case under the Representation of People's Act. Formerly, for all election disputes, a Tribunal was constituted. But by an amendment to the Representation of People's Act, the High Court Judge is now made the enquiry judge. Election petitions are tried by the High Court Judge himself : witnesses are examined, cross-examined ; and arguments are heard and judgement is delivered. I would submit that in that case, that is an enactment made by the Parliament itself and an additional duty is conferred on the Judge. In fact, formerly there were no witness boxes in the High Court. For the first time, to try original cases, we are seeing witnesses in just rawness being examined and cross-examined by the Counsels in the High Court. That is a duty cast on the High Court by a Parliamentary legislation.

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My learned friend was pleased to cite several cases. I cannot express an opinion *ad hoc* because *prima facie* it appears, here is a State legislature enacting a piece of legislation, calling upon a judge to enquire. The matter is not so simple as it appears. There are reported cases. The administration of justice and the judicial functions of the High Court or the Supreme Court are defined by their Lordships in various cases. Therefore, with due deference to the case law cited, I would request the Chair to refer the matter for the advice of the Advocate General because it is a very important and also a highly ticklish matter. I cannot express final opinion on whether in the guise of administration of justice and prescribing functions, whether this can be a general law of the land and the High Court Judge Could be called upon to administer law just like administering any ordinary law of the land. I think an expert opinion on this is necessary and

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time is required to study this problem. I would rather make a submission to the minister and also to the Speaker to have consultation with the Advocate General and other legal experts in this field. I cannot express a definite opinion on this matter.

Conceding for arguments sake any objection is raised; and assuming that this House has power to invest a judge with extra functions, it means extra finance. So far as my opinion is concerned, I have to concede that point because the High Court is already overburdened with cases. Supposing a Judge is called for, naturally he asks for staff, building, etc. It definitely means extra expenditure and it becomes a Finance Bill. Apart from technicalities, I agree with Sri Nanje Gowda when he says that there is absolute necessity for a Public men Enquiries Bill, in whatever form it comes, overcoming the legal hurdles and difficulties that are placed. We have been urging for the past three years for such a legislation. Why not the State Government take up immediately this problem and just like Kerala bring in a legislation? There is absolute necessity for such a legislation and why not the Government initiate legislation taking preliminary steps to see how best these hurdles can be overcome? Even when with best of intentions the hon. member brings in a Bill, it is asked where is the recommendation of the Governor? When we address to the Governor, invariably we get the answer 'no'. This almost curbs the enthusiasm of the members who want to initiate legislation in these matters. In fact I have introduced two bills. We know the constitutional position. The Governor will not assent unless he consults the ministry. It is the constitutional obligation on the part of the Governor that he should not go against the advice tendered by the Government. As to what advice was tendered cannot be enquired by any court. Therefore, naturally the ministry will say 'no'. We get replies; it is written on a beautiful paper with red embossed seal and when we read we find that request for consent is not conceded. So, the entire enthusiasm is doomed. By bringing in this Bill, it is not meant only to Ministers. It is a long noose to catch any member including the Opposition member. The object is that public life must be kept clean no matters whoever he may be. Nobody is above law. From the way the constitution is worded and from the organisation of courts we have at present, the Supreme Court cannot be burdened with additional functions without the consent of the President. More than this, with the limited preparation, I cannot give more views on this point. If the hon Minister is prepared to give an assurance that the Government will take up this matter immediately at least during the session, I would accept that position. The necessity for such a Bill is felt by everybody. After all when Kerala has done it, why should we lag behind? I am told in U.P. it has already become a law. When other State legislatures have enacted similar legislations, why should Mysore lag beind? Therefore, I want a definite assurance from the Minister that the Government would take steps to initiate a legislation in this respect.

With these observations I close my speech.

Sri H. SIDDAVEERAPPA.—Sir, on this Bill the hon. Minister in the last session, on 5th September 1969, raised some objections which are now substantiated. The tenor of his whole argument was that there is constitutional difficulty in considering the Bill as introduced by my hon. friend Sri Nanje Gowda. On this point, the hon. member Sri Srikantiah contributed his views and has said something about the legal aspect of it. I am not addressing my arguments on this point. I am only concerned with the spirit underlying this Bill and whether especially in these days whether there is any need for a legislation of the type as has been introduced by Sri Nanje Gowda.

The Statement of Objects and Reasons has made it abundantly clear as to why this legislation has been introduced by him:

> "With the growth of public investments and economic activities in the State and consequent on democratisation, there has been enormous increase in the number and variety of institutions headed by men in public life. The contact points with the citizen and the scope for abuse of power have grown both in width and depth. This has agitated the public mind so much that serious allegations and counter-allegations are being made almost incessantly both in the press and the platform. This is not without serious and adverse repurcussions on the stability of Governments and the morale in administration."

It can be seen that when man began to move in organised society, from that time onwards when Governments came into being, there have always been complaints that men in public places have an opportunity to get corrupted and in order to obviate that kind of a feeling, the first democratic country in the world that ever thought of purifying public administration, sterilizing it and placing ethical values high, was Sweden. The first institution of Ombudsman started in 1809. This has been working there for nearly 1½ centuries with very good results. The Ombudsman that we have seen is an Officer of the Legislature, the Legislature being supreme. Among the 3 limbs, it will be seen that Legislature is sovereign. With regard to the powers that have been given to it and within its orbit, the judiciary is sovereign. The executive has the power to translate into action what has been laid down by the Legislature and has been more or less a servant of the Legislature. What the Legislature demands, it is the duty of the executive to execute it. When such is the position, what has happened in this country is worth seeing. For a variety of reasons, after Independence, especially during the last 10 years, nothing was done in this direction. Firstly, they were just new to it in the first and second general elections. Men had not come so much out to demand that this man is corrupt, that man is corrupt and various other things. Now what has happened is that we have formed Corporations, Boards and various other bodies where non-officials have been entrusted with power and patronage including monetary

power. That is why it is very difficult to make any difference between a horse and an ass as it were. Even if a person is a very honest man, the moment he becomes M. L. A., they say that he has entered the profession to amass wealth : the moment he becomes a Minister, they say that this gentleman has gone there to amass wealth. They have been doing it non-challantly with the result that there is now a contempt for this kind of place in public service. This is not new to our country only. Even in other countries, wherever there are democracies they have been trying to evolve some kind of machinery so that one should not try to throw dust or mud in the face of those that have been in power. As has been said, mud cannot be washed by mud and so some other solution has got to be found for it. So long as we are here men may say so many things. We must evolve a machinery which will receive the complaints against public men. It may be the machinery of Lok Pal or Lok Ayukt passed by the Lok Sabha or it may be any other machinery that you can think of. Mr. Puttaswamy said that there is a Bill introduced in Parliament and let us wait and see its working. But I would like to say that we cannot wait. The country has been seeing so many charges levelled against you. Why not you try to get cleared of them ? Even in the Moghul period they used to have a bell rung ; if any man had a public grievance he would go and ring the bell and then his grievance would be heard. Unless you do something of that sort, I do not think this kind of complaint is not going to stop. The greatest drawback in our administration to day is the way, character has been assassinated. I won't say character has been assasinated, but I will only say character has been attacked. Assasination comes later. You will have to use that word after the whole thing has been subjected to enquiry. Therefore, I plead with all the emphasis at my command that you must subscribe to the view or the idea underlying this Bill. It is now for you to initiate the idea. Mr. Nanje Gowda has prompted you to take action in the manner in which he has suggested, so that hereafter the public may have a sense of feeling that if anybody is suspected of corruption he can be brought to book. The Vigilance Commission in Mysore State was introduced in 1965, probably after the report of the Santhanam Committee, but that refers only to Government servants. Even there the feeling in the country is that it is not perfect and that it has not given satisfactory service. Unless you trap a Government servant you cannot get any evidence and trapping is not so easy. Even there we have seen that nowadays it has become so common to have contact-men. Unless you have contact-men nothing can be done. Unless you pay grease money, nothing can move ; you will have to use oil and grease. That has become very common. Persons wielding power in Vidhana Soudha must be free from this charge. If you are to be free from that, you must allow the public to place their charges before a competent authority and that can only be done under the cover of law. The other day Chief Minister was helpless and he was pathetically saying : "What can I do you people do not co-operate with me ? ". That should not be the position. If any man fails to

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co-operate the law must be strong enough to catch him and then say "you shall not escape". That is why we have been pleading for it. There are two States in India which have taken action in this matter, namely U.P. and Kerala. Why don't you copy them ? The other day the Chief Minister was saying that we are the first States to do such and such a thing. Here is a case where other State have already taken action. I want Mysore to follow it. You do it in any manner you like. You say that you will create a machinery before which any man who has a grievance against any public men can place his grievance, instead of allowing people to indulge in loose talk of grievance. Now if anybody, says that Sri Puttaswamy took Rs. 1 lakh from him, there is nothing to stop him from saying that. But suppose there is a law and I make that allegation, then you can say, "come on, prove it." For that there should be a machinery. That is why we have been pleading for this in your own interest and in the interests of those who are there in power who want to get a clearance certificate and also in the interests of those that may come hereafter. After all, that place cannot be in a vacuum. It will have to be there for all time to come as long as organised society exists. There is an organisation as in Sweden and we find that there are not any complaints there. It is such a perfect organisation there that there are hardly 5 cases in a year because everybody knows that if he commits a mistake there is an organisation which the people will approach and throttle him. The result is that for a full year there are hardly 5 cases. This has a very salutary effect.

In this connection we remember that Sri Rama sent his wife to the forest for purification when a washerman questioned her chastity. That poor lady had to undergo this purification. Why all this happended ? Rama wanted to see that public doubt was removed. Likewise, the Mysore State is a model State and you must try to be model in getting all the charges cleared. With this objective in view I strongly recommend this Bill for the acceptance of this House. If you want time to bring a new law keeping this spirit in view and if you hold out a promise to this effect I will request Sri Nanje Gowda to withdraw this Bill.

† SRI H. M. CHANNABASAPPA.—This question has been discussed at length. There appears to be no need for further discussion. All that is wanted by Government is that it should make up its mind to bring a legislation to establish a machinery which can check malpractice and misuse of power in Mysore State as is being done in season and out of season. The Government should make up its mind to bring such a legislation. If that kind of assurance is given, there should be no difficulty for withdrawal. On the other hand if the Government wants to take a stand of its own, it will have to reap its consequences and this House cannot be a party to that. Sri Nanje Gowda wants an assurance

that the Government will bring that measure before this House for acceptance. If that assurance is coming forth, I will also join hands with my leader in requesting Sri Nanje Gowda to witndraw it.

† ಶ್ರೀ ಎಚ್. ಎನ್. ನಂಜೇಗೌಡ.—ಈ ಮಸೂದೆಯನ್ನು ಪರಿಶೀಲನೆ ಮಾಡಬೇಕೇ ಬೇಡವೇ ಎಂಬ ವಿಷಯದಲ್ಲಿ ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಭಾರಿ ವಿರಳವಾದ ವಿವರವನ್ನು ಮಂಡಿಸಿದ್ದಾರೆ. ಶ್ರೀಮಾನ್ ಶ್ರೀಕಂಠಯ್ಯನವರು ಮಾತನಾಡುತ್ತಾ ಎಕ್ಸ್‌ಟ್ರಾ ಫೈನಾನ್ಸಸ್ ಬೇಕಾಗುತ್ತದೆ ಎಂದು ಹೇಳಿದರು. On that point there was a ruling on the other day. I quote that. But regarding other points ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಕೆಲವು ಪುಸ್ತಕಗಳನ್ನು ರೆಫರ್ ಮಾಡಿದ್ದಾರೆ. ನಾನೂ ಕೂಡ ಅವನ್ನು ನೋಡಿಯೇ ಉತ್ತರ ಕೊಡಬೇಕು ಅಂತ ನನಗೆ ಅನ್ನಿಸಿತು. ಶ್ರೀಮಾನ್ ಪುಟ್ಟಸ್ವಾಮಿಯವರು ಮಾತನಾಡಿದ ಮೇಲೆ ನನಗೂ ಕೂಡ ಎರಡು ಮಾತುಗಳನ್ನು ಹೇಳಬೇಕೆಂದು ಅನಿಸುತ್ತಾ ಇದೆ. ನಮ್ಮಲ್ಲಿ ಸಾರ್ವಜನಿಕ ಜೀವನ ಕಲುಷಿತವಾಗಿರತಕ್ಕದ್ದು ಕಂಡುಬಂದಿದೆ. ನಾನು ತಮ್ಮ ಅಧಿಕಾರವನ್ನು ಬೆಳೆಸಿಕೊಳ್ಳುವುದಕ್ಕೆ ಇಂತಹ ಬಿಲ್ಲನ್ನು ಬೇಡ ಎಂದು ಹೇಳುತ್ತಾ ಇದ್ದೀರಿ ಅಂತ ಆಗಲಿ ಕ್ಯಾರಿಕ್ಟರ್ ಅಸ್ಯಾಸಿನೇಷನ್ ಮಾಡುವುದಕ್ಕಾಗಲಿ ಹೇಳುತ್ತಾ ಇಲ್ಲ. We are really convinced that there is some truth in what we say. ಅಂತ ಅನ್ನುವುದನ್ನು ನಾವು ಹೇಳುತ್ತಾ ಇದ್ದೇವೆ. ರಾಜಕೀಯದ ಬಗ್ಗೆ ಮಾತನಾಡುವುದು ಇದು ಏನೋ ಒಂದು ಕಸಬು ಇಲ್ಲದ ಕಾರ್ಯ, ಏಕೆ ಈ ವಿಷಯು ಮಾನಾಡಬೇಕು, ಅವನು ಏನು ಹೇಳಿದ, ಇವನು ಏನು ಹೇಳಿದ ಎನ್ನುವ ವಿಷಯಗಳೂ ಕೂಡ ಸಾರ್ವಜನಿಕರ ಮನಸ್ಸಿನಲ್ಲಿ ಉತ್ಪನ್ನವಾಗಿವೆ. ಲೋಕಪಾಲರ ವಿಷಯ ಹೇಳಿದರು. ಜಾಯಿಂಟ್ ಸೆಲೆಕ್ಟ್ ಕಮಿಟಿಯಲ್ಲಿ ರೆಕಮೆಂಡ್ ಆಗಿ ಬಂದು ಇವತ್ತು ಲೋಕ ಸಭೆಯಲ್ಲಿ ಇರತಕ್ಕ ವಸೂದೆಯ ಪ್ರಕಾರ ಹಿಂದೆ ಅಧಿಕಾರದಲ್ಲಿದ್ದವರನ್ನೂ ಕೂಡ ವಿಚಾರಣೆ ಮಾಡುವುದಕ್ಕೆ ಮತ್ತು ಹಾಲಿ ಇರತಕ್ಕವರನ್ನೂ ವಿಚಾರಣೆ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಇದೆ. ಕೇಂದ್ರ ಸರ್ಕಾರದ ಅಧಿಕಾರಿಗಳು ಮತ್ತು ಮಂತ್ರಿಗಳು ಮಾತ್ರವಲ್ಲ ರಾಜ್ಯಗಳಲ್ಲಿರತಕ್ಕ ಅಧಿಕಾರಿಗಳು ಮತ್ತು ಮಂತ್ರಿಗಳು ಅಲ್ಲದೇ ವಿಧಾನ ಸಭೆಯ ಸದಸ್ಯರ ಬಗ್ಗೆಯೂ ಕೂಡ ಇಂತಹ ವಿಚಾರಣೆ ಮಾಡಬೇಕೆಂಬ ಒಂದು ಪ್ರಾವಿಜನ್‌ಗೆ ಅವಕಾಶ ಇದೆ. ಆದ್ದರಿಂದ ನಿಜವಾಗಿಯೂ ಈ ಬಿಲ್ಲನ್ನು ತಯಾರುಮಾಡಬೇಕಾದರೆ ನಾನು ಭಾರಿ ಸರ್ಕಸ್ ಮಾಡಿ ಇದನ್ನು ಡ್ರಾಫ್ಟ್ ಮಾಡಿದ್ದೇನೆ. ನಿಜವಾಗಿಯೂ ಸರ್ಕಸ್ ಮಾಡಬೇಕಾಯಿತು. ಟೆಕ್ನಿಕಲ್ 100 ಪರ್ಸೆಂಟ್ ಚೆನ್ನಾಗಿ ತಯಾರು ಮಾಡಿಕೊಟ್ಟಿದ್ದು ತಮಗೆ ಗೊತ್ತಿದೆ. ಈ ಸಭೆಯಲ್ಲಿ ತಮ್ಮ ಅನುಮತಿಯನ್ನು ಪಡೆದೇ ಇದನ್ನು ಮಂಡಿಸಿದ್ದೇನೆ. ಹಿಂದೆ ಒಂದು ಸಾರಿ ಮಂಡಿಸಿದಾಗ ದುರಾದೃಷ್ಟವಶಾತ್ ರಾಜ್ಯಪಾಲರು ಇದನ್ನು ತೆಗೆದುಕೊಳ್ಳಬೇಕೆಂದು ಶಿಫಾರಸು ಮಾಡಲಿಕ್ಕೆ ಒಪ್ಪಲಿಲ್ಲ ಎಂದು ಸರ್ಕಾರದವರು ಹೇಳಿದರು. ಆದ್ದರಿಂದ ಆಗ ತರಲು ಸಾಧ್ಯವಾಗಲಿಲ್ಲ. ಈಗ ಬಂದಿರುವಂತಹ ಕಾಲದಲ್ಲಿ ರಾಜ್ಯಪಾಲರ ಶಿಫಾರಸು ಎಲ್ಲಾ ಆಗಿದೆ. ನಾನು ಮೊದಲೇ ಹೇಳಿದಹಾಗೆ ಬಹಳ ಸರ್ಕಸ್ ಮಾಡಿದೆ. ಫೈನಾನ್ಷಿಯಲ್ ಇಂಪ್ಲಿಕೇಷನ್ ಯಾವುದೂ ಇಲ್ಲದ ರೀತಿಯಲ್ಲಿ ನನ್ನ ಬುದ್ಧಿಗೆ ಸಮಾಧಾನ ತೋರಿದಂತೆ ಡ್ರಾಫ್ಟ್ ಮಾಡಿದ್ದೇನೆ. ನನ್ನ ಉದ್ದೇಶ ಏನಾದರೂ ಇಷ್ಟೆ ಇಂಥಾದ್ದು ಒಂದು ಮಸೂದೆ ಚರ್ಚೆಗೆ ಬರಬೇಕು ಚರ್ಚೆಗೆ ಬಂದನಂತರ ಕೂಲಂಕಷವಾಗಿ ಪರ್ಯಾಲೋಚನೆ ಮಾಡಲ್ಪಟ್ಟು ಇಂಥ ಒಂದು ಮಸೂದೆ ಆಗಬೇಕೆಂಬುದು ಆಗಿದೆ.

12-00 NOON.

Mr. SPEAKER.—This Bill was introduced during the last Session and after introduction it came up for consideration. At that stage, the Hon. Minister for Parliamentary Affairs raised two objections: (1) that in the absence of the recommendation by the Governor under Article 205(3) the Bill cannot be proceeded with, and (2) the incapacity of the Legislature to deal with it because it affects the Judges of the High Court and all that. Sri Nanje Gowda replied to the objection. Thereafter, hon. Members Sriyuths L. Srikantaiah, H. Siddaveerappa and H. M. Channabasappa expressed their views. If hon. Member Sri Nagappa also wants to say something, he can also state his points in a few minutes.

ಶ್ರೀ ಎಚ್. ಎನ್. ನಂಜೇಗೌಡ.—ಒಂದು ಉದ್ದೇಶಕ್ಕಾಗಿ ನಾನು ಈ ಪ್ರಯತ್ನ ಮಾಡಿದೆ. ಏನೆಂದರೆ ಈ ಸರ್ಕಾರದ ಮನಸ್ಸು ಏನಿದೆ, ಇಂಥ ಒಂದು ಮಸೂದೆ ಇಲ್ಲಿ ಚರ್ಚೆಯಾಗಿ ಸರ್ಕಾರದ ಮನೋಭಿಪ್ರಾಯವೇನು, ಆ ಕಡೆ ಕುಳಿತಿರುವ ಗೆಳೆಯರ ಅಭಿಪ್ರಾಯವೇನು, ಇಂಥ ಕಾನೂನು ಇರಬೇಕು ಎಂದು ಹೇಳುತ್ತಾರೆಯೇ, ಇರಬೇಕಾಗಿಲ್ಲ, ಎಂದು ಹೇಳುತ್ತಾರೆಯೇ ಅಷ್ಟನ್ನಾದರೂ ಅವರಿಂದ ಹೇಳಿಸಬೇಕು ಎನ್ನುವುದೇ ನನ್ನ ಉದ್ದೇಶವಾಗಿದೆ.

Mr SPEAKER.—If I have understood the mind of the Government the Hon. Minister for Parliamentary Affairs also says that there is necessity for such a law.

Sri H. M. CHANNABASAPPA.—That does not amount to a categorical assurance.

Mr. SPEAKER.—However, I do not want to interfere either way in such matters.

ಶ್ರೀ ಎಚ್. ಎನ್. ನಂಜೇಗೌಡ.—ಕ್ಯಾಟಗಾರಿಕಲ್ಲಾಗಿ ಅವರ ಅಭಿಪ್ರಾಯವೇನು ಎನ್ನುವುದು ಅರ್ಥವಾಗಲಿಲ್ಲ ಎನ್ನುವ ಉದ್ದೇಶದಿಂದ ಇದನ್ನು ನಾನು ತಂದಿದ್ದೇನೆ. ಅದನ್ನು ಅವರು ತಪ್ಪಿಸಿಕೊಳ್ಳುವ ರೀತಿಯಲ್ಲಿ, ನೇರವಾಗಿ ಅದನ್ನು ಬೇಡ ಎನ್ನುವುದಕ್ಕೆ ಬದಲಾಗಿ ಚೆಕ್ನಿಕಲ್ ಆಗಿ ಸರಿಯಿಲ್ಲ, ರಾಜ್ಯಪಾಲರ ರಕಮೆಂಡೇಷನ್ ಇಲ್ಲ, ಎನ್ನುವ ನೆಪಗಳನ್ನು ಅವರು ತರುತ್ತಿದ್ದಾರೆನ್ನುವುದನ್ನು ನಾನು ತೀರ್ಮಾನಿಸಿಕೊಂಡಿದ್ದೇನೆ. ಈಗಲೂ ನಾನು ತಮ್ಮ ಮುಖಾಂತರ ಸರ್ಕಾರಕ್ಕೆ ಹೇಳುತ್ತೇನೆ, ನಾನು ತಂದಿರುವ ಇಂಥ ಕಾನೂನಿನಿಂದ ತಮಗೆ ತಾಪತ್ರಯವಾಗುತ್ತದೆ, ಕಷ್ಟಕ್ಕೆ ಸಿಕ್ಕಿಹಾಕಿಕೊಳ್ಳುತ್ತೇವೆ, ತಮ್ಮ ಪರಿಸ್ಥಿತಿ ಪ್ರಕೋಪಕ್ಕೆ ಹೋಗುತ್ತದೆ, ಅವರಿಂದ ರಕ್ಷಣೆಗಾಗಿರಬೇಕು ಎನ್ನುವ ಉದ್ದೇಶಕ್ಕಾಗಿ ಇಂತಹ ಕಾನೂನನ್ನು ವಿರೋಧ ಮಾಡುತ್ತೇವೆಂದು ಹೇಳಲಿ. ಅವರು ಬಹುಮತದಲ್ಲಿರುವುದರಿಂದ ನಾನು ಇದನ್ನು ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಮಂಗಳೂರು ನೀರು ಸರಬರಾಜು ಮತ್ತು ಇಂಥವಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಕೆಲವು ತಪ್ಪುಗಳಿರಬಹುದು. ಆಂಥವಿರುವ ಕಾಲದಲ್ಲಿ ನಾನು ಇಂಥ ಕಾನೂನು ತಂದರೆ ನಮಗೆ ಮತ್ತು ಹಿರಿಯರಾದ ನಿಜಲಿಂಗಪ್ಪನವರಿಗೆ ಮುಂತಾದವರಿಗೆ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಆದ್ದರಿಂದ ಈ ಕಾನೂನನ್ನು ಒಪ್ಪುವುದಿಲ್ಲ ಎಂದು ಘಂಟಾಘೋಷವಾಗಿ ತಮ್ಮ ತೀರ್ಮಾನವನ್ನು ಹೇಳಲಿ, ಈ ಬಿಲ್ಲನ್ನು ನಾನು ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಆದರೆ ಚೆಕ್ನಿಕಲ್ ಆಗಿ ಸರಿಯಿಲ್ಲ ಎಂದು ಕೇಳುವುದು ಸರಿಯಿಲ್ಲ. ನಾನು ಇನ್ನೂ ವಿದ್ಯಾರ್ಥಿ. ವಿದ್ಯಾರ್ಥಿಯಾದ ಮೇಲೆ ನವರಿಗೆ ತಜ್ಞರ ಸಹಾಯವಿರುವುದಿಲ್ಲ. ಸರ್ಕಾರದವರಿಗಾದರೆ ಲಾ ಸೆಕ್ರೆಟರಿ, ಡೆಪ್ಯುಟಿ ಸೆಕ್ರೆಟರಿ ಹೀಗೆ ಬೇಕಾದಷ್ಟು ಸಿಬ್ಬಂದಿ ವರ್ಗ ಇರುವುದರಿಂದ ಅವರು ಚೆನ್ನಾಗಿ ಡ್ರಾಫ್ಟ್ ಮಾಡಬಹುದು. ಆದರೆ ನಾನು ನನ್ನ ಬುದ್ಧಿಗೆ ಪರಿಮಿತವಾಗಿ ಡ್ರಾಫ್ಟ್ ಮಾಡಿದ್ದೇನೆ. ಇದು ಚೆಕ್ನಿಕಲ್ ಆಗಿಯಲ್ಲ ಎಂದು ಹೇಳುವುದಾದರೆ, ಪುನಃ ಕಷ್ಟಪಟ್ಟು ಹಿರಿಯರನ್ನು ಕೇಳಿ ಡ್ರಾಫ್ಟ್ ಮಾಡುವುದಕ್ಕೆ ಪ್ರಯತ್ನ ಮಾಡುತ್ತೇನೆ. ಇದರಿಂದ ಸ್ವಲ್ಪ ಕಾಲ ತಡವಾಗುತ್ತದೆ. ಆದರೆ ಸರ್ಕಾರದವರೇ ಇಂಥ ಒಂದು ಕಾನೂನನ್ನು ತರುವುದಾಗಿ ಹೇಳಿದರೆ ನಾನು ಈ ಬಿಲ್ಲನ್ನು ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಇನ್‌ಕ್ಯೂರಿ, ಇನ್‌ಕ್ವೈರಿಂಗ್ ಜಡ್ ಇಂಥ ಪದಗಳಿಗೆ ಇರುವ ಅರ್ಥ ವಿವರಣೆಯಲ್ಲಾಗಲೀ, ಅಥವಾ ಬೇರೆ ಯಾವುದೇ ಭಾಗದಲ್ಲಾಗಲೀ ತಿದ್ದುಪಡಿಗಳನ್ನು ಸರ್ಕಾರದವರು ತರುವುದಾದರೆ ಅದನ್ನು ಕೂಡ ಒಪ್ಪಿಕೊಳ್ಳಬಹುದು. ಆದರೆ ಯಾವುದೋ ನೆವಗಳನ್ನು ಒಡ್ಡುವುದು ಬೇಡ. ಸರ್ಕಾರದವರೇ ಇಂಥ ಕಾನೂನು ಬೇಕಾಗಿದೆ, ತರುತ್ತೇವೆ ಎಂದು ಹೇಳುವುದಾದರೆ ನಾನು ಇನ್ನೊಂದು ಸಲ ಡ್ರಾಫ್ಟ್ ಮಾಡುವ ತಂಟೆಗೆ ಹೋಗುವುದಿಲ್ಲ. ಇಲ್ಲಿ ಚರ್ಚೆಯಾಗಿ, ಸಭೆಯ ಕಾಲ ವ್ಯರ್ಥವಾಗಿ ಅನಂತರ ಬಿದ್ದು ಹೋಗುವುದು ಬೇಡ. ಇಂಥ ಕಾನೂನಿನಿಂದ ಕೆಲವಾರು ಜನರಿಗೆ ತೊಂದರೆಯಾಗುತ್ತದೆ, ಬೇಡ ಎಂದರೆ ನಾನು ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಇಂಥ ಕಾನೂನಿನ ಅವಶ್ಯಕತೆ ಇದೆ, ಈಗ ತಂದಿರುವುದು ಸರಿಯಾಗಿಲ್ಲ, ಸರ್ಕಾರ ಲಾ ಡಿಪಾರ್ಟ್‌ಮೆಂಟಿನ ಮುಖಾಂತರ ಇದೇ ಅರ್ಥ ಬರತಕ್ಕ ಕಾನೂನನ್ನು ತರುವುದಾಗಿ ಹೇಳಿದರೆ ಅದಕ್ಕೆ ನನ್ನ ಅಭ್ಯಂತರವಿಲ್ಲ. ಶ್ರೀಮಾನ್ ಚನ್ನಬಸಪ್ಪನವರು, ಶ್ರೀಮಾನ್ ಸಿದ್ಧವೀರಪ್ಪನವರು, ಶ್ರೀಮಾನ್ ನಿಜಲಿಂಗಪ್ಪನವರು ಇವರೆಲ್ಲ ಹಿಂದೆ ಅಧಿಕಾರದಲ್ಲಿದ್ದವರು. 10-15 ವರ್ಷದ ಹಿಂದಿನಿಂದ ರಿಟ್ರಾಸ್ಪೆಕ್ಟಿವ್ ಎಫೆಕ್ಟ್ ಕೊಡಿ, ಅಥವಾ ಸ್ವಾತಂತ್ರ್ಯ ಬಂದಾಗಿನಿಂದ ಎಂದರೆ 1947 ರಿಂದಲೇ ಜಾರಿಗೆ ಬರುವಂತೆ ಮಾಡಿ. ಹಿಂದೆ ಯಾರು ಯಾರು ಅಧಿಕಾರದಲ್ಲಿದ್ದರು ಅವರೆಲ್ಲರಿಗೂ ಅನ್ವಯವಾಗುವಂತೆ ಮಾಡಿ. ಮುಚ್ಚೆದೊಡ್ಡಿ ಪ್ರಕರಣ ಶರಾವತಿ ಕರ್ಮ ಕಾಂಡದಿಂದ ಹಿಡಿದು ಹೊಸದಾಗಿ ಬಂದಿರುವ ಮಂಗಳೂರು ನೀರು ಸರಬರಾಜು ಯೋಜನೆ, ಬೆಂಗಳೂರು ನೀರು ಸರಬರಾಜು

ಯೋಜನೆಯನ್ನೂ ಸೇರಿಸಿಕೊಂಡು ಎಲ್ಲ ಕೆಮರ್ ಕಂಡಗಳೂ ಸೇರಿ ಸ್ವಾತಂತ್ರ್ಯ ಬಂದಮೇಲೆ ನಮ್ಮ ರಾಜ್ಯದಲ್ಲಿ ಯಾರು ಯಾರು ಅಧಿಕಾರದಲ್ಲಿದ್ದರು ಅವರ ಅಸೆಟ್ಸ್ ಅಂಡ್ ಲಯಬಿಲಿಟೀಸ್ ಪಟ್ಟಿಯನ್ನೂ ಒಳಗೊಂಡು ಎಲ್ಲವನ್ನೂ ವಿಚಾರಣೆ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿ, ಕ್ಯಾರೆಕ್ಟರ್ ಅಸಾಸಿನೇಷನ್‌ಗೆ ಅವಕಾಶವಿಲ್ಲದಂತೆ ಮಾಡೋಣ. ಇಂಥ ವಿಚಾರಗಳೆಲ್ಲವನ್ನೂ ವಿಚಾರಣೆ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡತಕ್ಕ ಒಂದು ಮಸೂದೆಯನ್ನು ಸರ್ಕಾರದವರು ಈ ಅಧಿವೇಶನದಲ್ಲಿ ತರುತ್ತಾರೆ ಎನ್ನುವ ಭರವಸೆಯನ್ನು ಕೊಟ್ಟರೆ ನಾನು ಇದನ್ನು ವಾಪಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಮಸಿ ಬಳಿಯುವುದಕ್ಕೆ ಎನ್ನುವ ಮಾತನ್ನು ಹೇಳುತ್ತಿದ್ದಾರೆ. ಇದರಿಂದ ನನ್ನ ಮನಸ್ಸಿಗೆ ಬಹಳ ನೋವಾಗಿದೆ. ಯಾರಿಗೂ ಮಸಿ ಬಳಿಯುವುದಕ್ಕೆ ನಾನು ಈ ಮಸೂದೆಯನ್ನು ತಂದಿಲ್ಲ. ಅಂಥದಕ್ಕೆ ಅವಕಾಶವಿಲ್ಲದೆ ಇರಲಿ ಎಂದೇ, ಅದನ್ನು ತಪ್ಪಿಸಬೇಕು ಎಂದೇ ನಾನು ಈ ಬಿಲ್ಲನ್ನು ತಂದಿರುವುದು. ಯಾರಾದರೂ ಉದ್ದೇಶಪೂರ್ವಕವಾಗಿ ಒಬ್ಬರ ಕ್ಯಾರೆಕ್ಟರ್ ಅಸಾಸಿನೇಷನ್ ಮಾಡುವುದಕ್ಕೆ ಪ್ರಯತ್ನ ಪಟ್ಟರೆ ಅಂಥವರನ್ನು ಪ್ರಾಸಿಕ್ಯೂಟ್ ಮಾಡುವ ಉದ್ದೇಶವನ್ನೂ ನಾನು ಹೊಂದಿದ್ದೇನೆ. ನಮ್ಮ ಸರ್ಕಾರಕ್ಕೆ ಒಂದು ರಕ್ಷಣೆ ಕೊಡಬೇಕು ಎನ್ನುವ ಉದ್ದೇಶದಿಂದ ತಂದಿದ್ದೇನೆ. ಅವರನ್ನು ರಕ್ಷಣೆ ಮಾಡಬೇಕೆಂದು ತಂದಿರುತ್ತೇನೆಯೇ ಹೊರತು ಭಕ್ಷಣೆ ಮಾಡುವುದಕ್ಕೆ ತಂದಿಲ್ಲ. ಸರಕಾರದವರು ಇಂಥ ಒಂದು ಮಸೂದೆ ಸಭೆಯು ಮುಂದೆ ತರುತ್ತೇವೆ ಎಂದು ಹೇಳಿದರೆ ನಾನು ನನ್ನ ಮಸೂದೆಯನ್ನು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇನೆ. ಇಲ್ಲವಿದ್ದರೆ ನನ್ನ ಮಸೂದೆ ಚರ್ಚೆ ಮಾಡುವುದಕ್ಕೆ ಅವಕಾಶ ಮಾಡಿ ಕೊಡಬೇಕು. ನನ್ನ ಮಸೂದೆಯಲ್ಲಿ ಏನಾದರೂ ಆಕ್ಷೇಪಾರ್ಹವಾದ ಪದಗಳು ಇದ್ದರೆ, ಅದರ ಬಗ್ಗೆ ಚರ್ಚೆ ಮಾಡುವುದಕ್ಕೆ ತೊಂದರೆ ಏನೂ ಇಲ್ಲ. ಇಂಥ ಪದಗಳಲ್ಲಿ ವ್ಯತ್ಯಾಸ ಮಾಡಬೇಕಾಗಿದ್ದರೆ ಅದಕ್ಕೆ ತಿದ್ದುಪಡಿ ಕೊಡಬಹುದು. ಅದಕ್ಕೆ ಪ್ರಯತ್ನ ಮಾಡುತ್ತೇನೆ. ಕೊನೆಯದಾಗಿ ನಾನು ಒಂದು ಅರಿಕೆ ಮಾಡಿಕೊಳ್ಳುತ್ತೇನೆ. ಏನೆಂದರೆ ಇದನ್ನು ಚರ್ಚೆ ಮಾಡಲು ಅವಕಾಶ ಮಾಡಿ ಕೊಡಬೇಕು ಎಂಬುದಾಗಿ. ಇಲ್ಲವೆ ಶ್ರೀಮಾನ್ ಶ್ರೀಕಂಠಯ್ಯನವರು ಹೇಳಿದ ರೀತಿಯಲ್ಲಿ ಇದನ್ನು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳಲು ತಯಾರಾಗಿದ್ದೇನೆ. ಇಷ್ಟು ಹೇಳಿ ನನ್ನ ಮಾತು ಮುಗಿಸುತ್ತೇನೆ.

†ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ.—ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರೇ, ಒಂದೆರಡು ಮುಖ್ಯ ವಿಚಾರಗಳನ್ನು ತಮ್ಮ ಮೂಲಕ ಸರಕಾರದ ಗಮನಕ್ಕೆ ತರಲು ಇಚ್ಛಿಸುತ್ತೇನೆ. ಶ್ರೀಮಾನ್ ಪುಟ್ಟಸ್ವಾಮಿಯವರು ಕಾರ್ಪೊರೇಷನ್ನಿನ ಸೆಕೆಂಡ್ ಷೆಡ್ಯೂಲ್ ಪಾರ್ಟ್-ಡಿ 11-ಬಿ ಪ್ರಕಾರ ಆಬ್‌ಜಕ್ಷನ್ ತೆಗೆದುಕೊಂಡಿದ್ದಾರೆ. ಏನೆಂದರೆ ಈಗ ಮೈಸೂರು ಪಬ್ಲಿಕ್ ಮೆನ್ ಇನ್‌ಕ್ವಾಯರೀಸ್ ಬಿಲ್ ನಂಬರ್ 7 ಆಫ್ 1969 ಚಾಪ್ಟರ್ 3, ಸೆಕ್ಷನ್ 8 ರಲ್ಲಿ ಚೀಫ್ ಜಸ್ಟಿಸ್‌ರು ನಬಾರ್ಡಿನೇಟ್ ಜಡ್ಜ್‌ರವರಿಗೆ ಪರಿಶೀಲನೆಗೆ ಕಳಿಸಬಹುದು ಎಂದು ಇದೆ. ಇದು ಮಸಿ ಬಿಲ್ ಆಗುವುದಿಲ್ಲ, ಇದರಲ್ಲಿ ಫೈನಾನ್ಸಿಯಲ್ ಇಂಪ್ಲಿಕೇಷನ್ಸ್ ಉದ್ಭವವಾಗುವುದಿಲ್ಲ ಇದಕ್ಕೆ ಗವರ್ನರರ ಅನುಮತಿ ಬೇಕು ಬೇಡ ಹೇಳುವುದಕ್ಕೆ ಮುಂಚೆ ಜಡ್ಜ್‌ರವರ ಡ್ಯೂಟಿ ಪರಿಗಣಿಸಬೇಕಾಗುತ್ತದೆಯೇ ಇಲ್ಲವೇ ಎನ್ನುವುದನ್ನು ನೋಡಬೇಕಾಗುತ್ತದೆ. ಇದನ್ನೆಲ್ಲಾ ಗಮನದಲ್ಲಿ ಇಟ್ಟುಕೊಳ್ಳಬೇಕಾಗುತ್ತದೆ. ಆರ್ಟಿಕಲ್ 246 ರ ಪ್ರಕಾರ ಲೆಜಿಸ್ಲೇಚರ್‌ನ ಅಧಿಕಾರದಲ್ಲಿ ಯಾವ ಕಾಯಿದೆ ತರಬಹುದು ಎನ್ನುವುದು ಇದೆ. ಈ ಬಿಲ್ಲಿನಲ್ಲಿ ನಮೂದಿಸಿರುವಂಥ ಕೆಲಸ ಕಾರ್ಯಗಳು ಜಡ್ಜ್‌ಗೆ ಸಂಬಂಧಪಟ್ಟದ್ದು ಆಗಿದೆಯೆಂದರು. ಈ ಮಾನ್ಯ ಸಭೆಗೆ ಇಂಥ ಕಾನೂನು ಮಾಡುವ ಅಧಿಕಾರ ಉಂಟು. ಈ ಸಭೆಯು ಕಾಯಿದೆಯಿಂದ ಹೈಕೋರ್ಟ್ ನ್ಯಾಯಾಧೀಶರು ಇಂಥಿಂಥ ಕ್ರಮ ಮಾಡಬಹುದು ಎಂದು ಹೇಳತಕ್ಕ ಅಧಿಕಾರ ಕೊಡುತ್ತದೆ. ಸೆಕೆಂಡ್ ಷೆಡ್ಯೂಲಿನಲ್ಲಿರುವ ಡ್ಯೂಟೀಜ್‌ಗೆ ಇದು ವಿರೋಧವಾಗುತ್ತದೆ ಎಂದು ಮಂತ್ರಿಗಳು ಏನು ಹೇಳಿದರೋ ಅದು ಸರಿಯಾದ ಇಂಟರ್‌ಪ್ರಿಟೇಷನ್ ಅಲ್ಲ. ರೂಲಿಂಗ್ಸ್ ಓದಿದರೆ ನನಗೆ ಅರ್ಥವಾಗಲಿಲ್ಲ. ನಮ್ಮ ಹೈಕೋರ್ಟಿನಲ್ಲಿ ಇಂಥ ಒಂದು ಕೇಸು ಆಗಿದೆ. ಬಹುಶಃ ಅವರು ಈ ಕೇಸಿನ ಬಗ್ಗೆ ಓದಿದ್ದು ನಾನು ಕೇಳಿಲ್ಲ. 1965, ಪುಟ 158, ಶಿವರುದ್ರಪ್ಪ ಕಪೂರಚಂದ ಮಾರವಾಡಿ ಈ ಕೇಸಿನಲ್ಲಿ ನಿರ್ಣಯವಾಗಿದೆ. ಅಲ್ಲಿ ಇರತಕ್ಕಂಥ ಪರಿಸ್ಥಿತಿ ಉತ್ಪನ್ನವಿಸಿದೆ. ಆ ಕೇಸಿನಲ್ಲಿ ಇರತಕ್ಕ ಪಾಯಿಂಟ್ ಸಂಪೂರ್ಣವಾಗಿ ಸಂಬಂಧಪಡುತ್ತದೆ. ನಮ್ಮ ಹೈ ಕೋರ್ಟಿನ ನಿರ್ಣಯವನ್ನು ಇದಕ್ಕಿಂತ ಹಿಟ್ಟಿನವಾದ ಸುಪ್ರೀಂ ಕೋರ್ಟ್ ಓವರ್ ರೂಲ್ ಮಾಡದೇ ಇರುವಾಗ ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ಪುಸ್ತಕ ತಂದು ತೋರಿಸುವ ಅಗತ್ಯ ಇರಲಿಲ್ಲ.

1965ರ ಡಿಸಿಷನ್ ಕೋರ್ಟ್ ಮಾಡಿದರೆ ಪ್ರತಿಕೋರ್ಟ್ ಮಾಡುತ್ತೇವೆ ಎಂದು ಹೇಳುತ್ತಾರೆ. ಬುಕ್ ಕೋರ್ಟ್ ಮಾಡಿದರೆ ವಾಪಸಿವಾವಾದಕ್ಕೆ ಆಸ್ಪದ ಇಲ್ಲ. ಅಡ್ಮಿನಿಸ್ಟ್ರೇಷನ್ ಆಫ್ ಜಸ್ಟೀಸ್ ಏನಾಗಿದೆ ಎನ್ನುವುದನ್ನು ಸ್ಪಷ್ಟವಾದ ಪದಗಳಲ್ಲಿ ಹೇಳಿದ್ದೇನೆ. ಆ ದೃಷ್ಟಿಯಿಂದ ಈ ಸಭೆಯಲ್ಲಿ ವಾದ ಉದ್ಭವಿಸುವುದಕ್ಕೆ ಕಾರಣವಿಲ್ಲ. ಏನು ನಿರ್ಣಯ ಮಾಡಿದೆ ಆ ನಿರ್ಣಯದ ಪ್ರಕಾರ ತಾವು

(ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ)

ರೂಲಿಂಗ್ ಕೊಟ್ಟರೆ ಯಾವ ವಿಧವಾದ ತೊಂದರೆಯೂ ಆಗಲಿಕ್ಕಿಲ್ಲ. ಈ ಮಾನ್ಯ ಸಭೆಗೆ ರೂಲಿಂಗ್ ಬೇಕಾಗಿದೆ. ಶ್ರೀಮಾನ್ ನಂಜೇಗೌಡರು ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳುತ್ತೇವೆ ಎಂದು ಹೇಳಿದರು. ಇಂಥ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಸರ್ಕಾರಕ್ಕೂ ವಿರೋಧಿಸಬೇಕಾದ ಪರಿಸ್ಥಿತಿ ಬರುತ್ತದೆ. ಈ ಮಾನ್ಯಸಭೆಗೆ ನಿರ್ಣಯ ಬೇಕೇ ಬೇಕು. ಪ್ರತಿಸಾರಿ ಹೈಕೋರ್ಟ್ ರೂಲಿಂಗ್ಸ್ ತಂದು ವಾದವಿವಾದ ಮಾಡುವುದಕ್ಕಿಂತ ತಾವು ಗೈಡ್‌ಲೈನ್ಸ್ ಹಾಕಿ ಇಂತಿಂಥ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಹೈಕೋರ್ಟ್‌ರೂಲಿಂಗ್ಸ್ ರೆಫರ್ ಮಾಡಿ ಎಂದು ಹೇಳಿ ಮಾನ್ಯ ಮಂತ್ರಿಗಳು ರೂಲಿಂಗ್ ಕೊಟ್ಟಿದ್ದಾರೆ ಎಂದು ಹೇಳಿದರು ನಾನು ಕೋರ್ಟ್ ಮಾಡಿದ್ದು ಅಪ್ರೊಪ್ರಿಯೇಟ್ ರೂಲಿಂಗ್ ಇದೆ, ನನ್ನ ಕೇಳು ಅಪ್ಲೈ ಆಗುತ್ತದೆ. ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳಿ ಎಂದು ಹೇಳಿದರೆ ವಾಪಸ್ಸು ತೆಗೆದುಕೊಳ್ಳುವುದಕ್ಕೆ ಬರುವುದಿಲ್ಲ. ದಯವಿಟ್ಟು ನಿರ್ಣಯ ಕೊಡಿ. ಇದು ಮುಂದಕ್ಕೆ ಸಹಾಯವಾಗುತ್ತದೆ.

Mr. SPEAKER.—I resume the ruling.

(v) Mysore University (Amendment) Bill, 1969

Motion to Consider

Mr. SPEAKER.—Now Hon. Member Sri L Srikantaiah may move his Bill, which was introduced on 28th March 1969.

Sri L. SRIKANTAIAH.—I beg to move :

"That the Mysore University (Amendment) Bill, 1969 be taken into consideration".

Mr. SPEAKER.—Motion moved :

"That the Mysore University (Amendment) Bill, 1969 to be taken for consideration".

†ಶ್ರೀ ಎಲ್. ಶ್ರೀಕಂಠಯ್ಯ.—ಸ್ವಾಮಿ, ಈ ಒಂದು ತಿದ್ದುಪಡಿ ಶಾಸನದ ಬಗ್ಗೆ ನಾನು ಕೆಲವು ಅಂಶಗಳನ್ನು ಸೂಕ್ಷ್ಮವಾಗಿ ಹೇಳುವುದಕ್ಕೆ ಪ್ರಯತ್ನಪಡುತ್ತೇನೆ. 1956ರ ಮೈಸೂರು ವಿಶ್ವವಿದ್ಯಾನಿಲಯದ ಶಾಸನದ ರೀತ್ಯಾ ಬೋರ್ಡ್ ಆಫ್ ಅಪಾಯಿಂಟ್‌ಮೆಂಟ್ಸ್ ಏನು ಮಾಡಿದ್ದಾರೆ ಅದರ ಸ್ವಭಾವ ಮತ್ತು ಅದರ ಅವಶ್ಯಕತೆ ಬಗ್ಗೆ ಮಾನ್ಯ ಸದಸ್ಯರು ಅರ್ಥ ಮಾಡಿಕೊಳ್ಳಬೇಕಾದರೆ ಅದರ ಹಿನ್ನಲೆಯನ್ನು ನಾನು ಈ ಮಾನ್ಯ ಸಭೆಗೆ ಸ್ವಲ್ಪ ಹೇಳಬೇಕಾಗಿದೆ.

1956ರ ಮುನ್ನ ಮೈ ಸೂರು ವಿಶ್ವವಿದ್ಯಾನಿಲಯದ ಸಂಬಂಧಪಟ್ಟಂತೆ ಒಂದು ಶಾಸನ ಇತ್ತು. 1956 ರಲ್ಲಿ ಇದು ತಿದ್ದುಪಡಿ ಆಗಿದೆ; ನನಗೆ ತಿಳಿದಮಟ್ಟಿಗೆ 1956ಕ್ಕೆ ಮುನ್ನ ಮೈಸೂರು ವಿಶ್ವವಿದ್ಯಾನಿಲಯದ ಆಂಗರಚನೆಯಲ್ಲಿ ಪ್ರಾಮುಖ್ಯವಾದ ಯೂನಿವರ್ಸಿಟಿ ಕೌನ್ಸಿಲ್ ಅಥವಾ ಸಿಂಡಿಕೇಟ್ ಇತ್ತು. ಈಗ ಇರುವ ಹಾಗೆ ಉಪಅಂಗವಾಗಿ ಯೂನಿವರ್ಸಿಟಿ ಕೌನ್ಸಿಲ್ ಮತ್ತು ಸೆನೆಟ್ ಭಾಗಗಳು ಇದ್ದವು. ಮುಖ್ಯವಾಗಿ ಅಧ್ಯಾಪಕ ವರ್ಗವನ್ನು ಮತ್ತು ಇತರರನ್ನು ನೇಮಕ ಮಾಡ ತಕ್ಕಂಥ ಪೂರ್ಣ ಅಧಿಕಾರ ಯೂನಿವರ್ಸಿಟಿ ಅಥವಾ ಸಿಂಡಿಕೇಟ್‌ಗೆ ಇತ್ತು. ಪದ್ಧತಿ ಹೇಗೆ ಇತ್ತು ಎಂದರೆ ಯಾವುದೊ ಒಂದು ಅಡ್ವೈಸರಿ ಬಾಡಿ ಮಾಡಿಕೊಂಡು ಅವರು ಕ್ಯಾಡಿಡೇಟ್ಸ್‌ನನ್ನು ಇಂಟರ್‌ವ್ಯೂ ಮಾಡಿ ಅವರ ರೆಕಮೆಂಡೇಷನ್ಸ್ ಸಿಂಡಿಕೇಟ್ ಅಥವಾ ಕೌನ್ಸಿಲ್‌ಗೆ ಬಂದರೆ, ಅವು ಸಿಂಡಿಕೇಟ್, ಥಾನ್ಸ್‌ಲರ ಒಪ್ಪಿಗೆ ಪಡೆದು ಅವರನ್ನು ಅಪಾಯಿಂಟ್ ಮಾಡತಕ್ಕಂಥ ಪದ್ಧತಿ ಇತ್ತು. ನೇರವಾಗಿ ಸರ್ಕಾರದವರೇ ಅಪಾಯಿಂಟ್ ಮಾಡುತ್ತಿದ್ದರು ಎಂದು ಹೇಳಬಹುದು. ಈ ಒಂದು ಕಾರ್ಯಾಚರಣೆಯಲ್ಲಿ ಬಹಳ ವಿಧವಾದ ದೋಷದೋಷಗಳು ಕಂಡುಬಂದಿವೆ ಎಂದರೆ ವಿಶ್ವವಿದ್ಯಾನಿಲಯದ ಕೌನ್ಸಿಲ್‌ನಲ್ಲಿ ಯಾರು ಹೆಚ್ಚು ಪ್ರಭಾವವನ್ನು ಬೀರುವುದಕ್ಕೆ ಅವಕಾಶ ಇದೆಯೋ ಅಥವಾ ಯಾವ ಕೌನ್ಸಿಲ್ ಸದಸ್ಯರ ಅವರ ಅನುಯಾಯಿಗಳಾಗಿದ್ದಾರೋ ಅಥವಾ ಅವರ ಜೇಲಗಳಾಗಿದ್ದಾರೋ ಅಂತಹವರಿಗೆ ಆರ್ಹತೆ ಇರಲಿ ಅಥವಾ ಇಲ್ಲದೇ ಹೋಗಲಿ ಅಪಾಯಿಂಟ್‌ಮೆಂಟ್ ಆಗುತ್ತಾ